

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
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)
)
) **19 CR 567**
)
v.)
)
)
ROBERT KELLY,)
)
)
Defendant.)

**DEFENDANT'S MOTION FOR THE IMMEDIATE SETTING OF AN
EVIDENTIARY HEARING; FOR AN ORDER REQUIRING THE
APPEARANCE OF WITNESSES AT THAT HEARING; AND TO SUPPLEMENT
HIS PENDING MOTION FOR RELEASE FROM CUSTODY**

Defendant, Robert Kelly, by and through his undersigned counsel, moves this Court to immediately set an evidentiary hearing, and provides this Supplement to his pending bond Motion (*see* Dkt. at no. 143):

1. As this Court is aware, Mr. Kelly filed a renewed Motion for Bond/Release from Custody (Dkt. 143), which is currently being briefed pursuant to this Court's Order. (*See* Dkt. at no. 144).
2. However, additional troubling information has come to light that bears directly upon Mr. Kelly's pending Motion, as well as his safety at the Chicago MCC.
3. Approximately one week ago, Mr. Kelly was assaulted at the MCC, and sustained injuries.
4. That incident alone merits Mr. Kelly's immediate release from custody because it further illustrates the inability of the BOP to safely house Mr. Kelly, and to allow him to

prepare for trial.

5. However, more significantly, on September 1, 2020, the individual who purportedly carried out that assault on Mr. Kelly, Jeremiah Shane Farmer, has now publicly come forward to disclose the fact that MCC personnel encouraged him to carry out that attack upon Mr. Kelly.

See Mr. Farmer's filing in case 20 2291, a copy of which is attached hereto, at p.

3; *see also* <https://chicago.suntimes.com/crime/2020/9/3/21422142/latin-king-tied-2-murders-he-attacked-r-kelly-expose-corruption>.

6. Indeed, according to Mr. Farmer's *pro se* filing, MCC personnel told him to "go do it then," referring to attacking Mr. Kelly.

7. Moreover, it appears that MCC personnel simply followed Mr. Farmer, allowed him to carry out the attack, and then only intervened after Mr. Kelly had already sustained serious injuries. *Id.* at Farmer filing, at attached BOP Report of Incident.

8. Accordingly, Mr. Kelly requests that this Court immediately set an evidentiary hearing in order to allow Mr. Kelly's counsel, and this Court, to examine Mr. Farmer under oath, regarding the facts and circumstances underlying his attack upon Mr. Kelly – including, but not limited to the role that any MCC personnel played in that attack.

9. Mr. Farmer now has no basis to assert his Fifth Amendment rights in light of the fact that he has already waived them, and Mr. Farmer represents himself.

10. In addition, Mr. Kelly's counsel requests that the MCC Chicago be required to produce for examination under oath all personnel involved in that incident, including but not limited to those generally and specifically referenced in Mr. Farmer's filing.

11. In sum, Mr. Kelly is an individual who has never been convicted of any crime; who presents no risk of flight; who has been housed in virtual lockdown conditions at the MCC;

who has been denied any meaningful interaction with his counsel for months; and who has been denied the ability to assist in his defense and prepare for trial.

12. Enough is enough. Now, the allegations are that those housing him may be involved in putting him at risk of death or physical harm.

13. To the extent this Court does not believe Mr. Kelly should be immediately released from custody with the conditions already proposed by his counsel and Pre-Trial Services, then this Court should Order that an evidentiary hearing be immediately held in order to allow the examination, under oath, of Mr. Farmer, and all relevant MCC Chicago personnel.

WHEREFORE, Mr. Kelly, by and through his undersigned counsel, respectfully requests the entry of an Order either: 1) granting Mr. Kelly immediate release from custody under the conditions previously proposed by counsel, or 2) holding, as soon as possible, an evidentiary hearing to allow the examination under oath of all persons and for such other and further relief as is appropriate.

Respectfully submitted,

By: /s/ Michael I. Leonard
One of the Attorneys for Mr. Kelly

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CERTIFICATE OF SERVICE

The undersigned states that, on September 4, 2020, he EFILED by way of this Court's ECF filing system, the above Motion, and therefore not served upon al counsel of record.

By:/s/ Michael I. Leonard
Counsel for Mr. Kelly